CCRB INVESTIGATIVE RECOMMENDATION

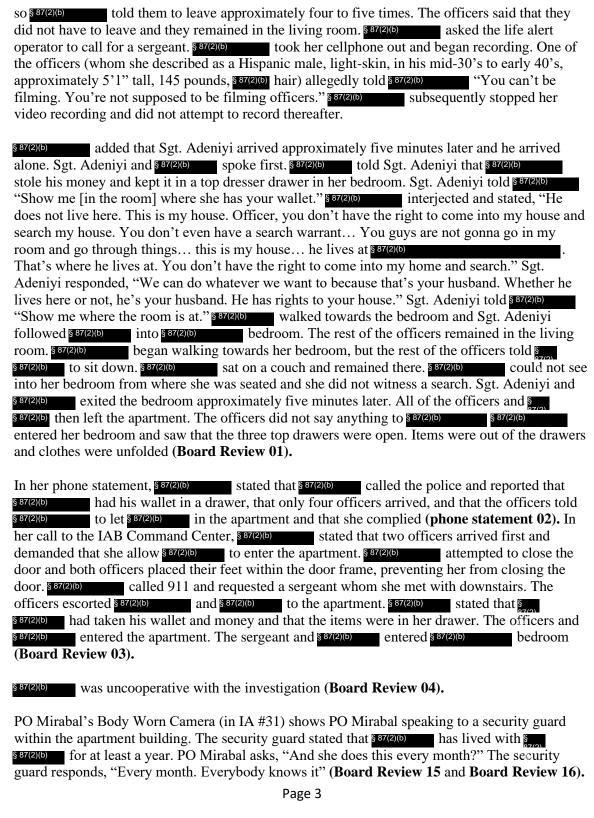
Investigator:		Team:	CCRB Case #:	Force	☐ Discourt.	U.S.	
Raquel Velasquez		Squad #10	201708991	☑ Abuse	O.L.	☐ Injury	
Incident Date(s)		Location of Incident:	<u> </u>	Precinct:	18 Mo. SOL	EO SOL	
Monday, 10/23/2017 10:20 PM		§ 87(2)(b)		48	4/23/2019	4/23/2019	
Date/Time CV Reported		CV Reported At:	How CV Reported	: Date/Tim	e Received at CCI	RB	
Mon, 10/23/2017 11:30 PM	23/2017 11:30 PM		IAB Phone		Mon, 10/30/2017 11:01 AM		
Complainant/Victim	Туре	Home Addr	ess				
Witness(es)		Home Addr	ess				
Subject Officer(s)	Shield	TaxID	Command				
1. An officer			048 PCT				
2. SGT Ayotunde Adeniyi	01246	934370	048 PCT				
Witness Officer(s)	Shield N	lo Tax No	Cmd Name				
1. POM Christophe Tansey	02760	942597	048 PCT				
2. POF Isaura Mirabal	10035	934504	048 PCT				
3. POM Henry Oseiakoto	19167	959024	048 PCT				
Officer(s)	Allegati	on		Inv	estigator Recon	nmendation	
A. An officer	Abuse: An officer interfered with \$87(2)(b) use of a recording device.						
B.SGT Ayotunde Adeniyi	Abuse: Sergeant Ayotunde Adeniyi entered in the						
a aam A	Bronx.			_			
C.SGT Ayotunde Adeniyi	Abuse: S § 87(2)(b) Bronx.	Sergeant Ayotunde Adei		the			

Case Summary

filed this complaint with IAB via telephone on October 23, 2017. The complaint was referred to the CCRB and was received on October 30, 2017. On October 23, 2017, at approximately 10:20 p.m., \$\infty\$ called 911 following a dispute with her husband, § 87(2)(b) in their apartment located at § 87(2)(b) in the Bronx. Police Officer Isaura Mirabal and Police Officer Christopher Tansey, from the 48th Precinct, responded. A supervisor was called and Sergeant Ayotunde Adeniyi and Police Officer Henry Oseiakoto, from the 48th Precinct, also responded. §87(2)(b) took a cellphone out and recorded the incident. An unidentified officer allegedly stated, "You can't be filming. You're not supposed to be filming officers" (Allegation A: Abuse of Authority-Interference with). Under Sgt. Adeniyi's supervision, the officers entered § 87(2)(b) apartment (Allegation B: Abuse of Authority- Entry, §87(2)(9)). Sgt. Adeniyi escorted § into a bedroom and allegedly searched drawers (Allegation C: Abuse of Authority-Search, § 87(2)(g)). § 87(2)(b) retrieved his wallet. The officers and § 87(2)(b) left the apartment. No summonses or arrests resulted from this incident. Video evidence was obtained from PO Mirabal's Body Worn Camera (Board Review15, Board Review 16, Board Review 17, Board Review 18, and Board Review 19). **Findings and Recommendations** Allegation A: Abuse of Authority- An officer interfered with \$87(2)(b) recording device. Allegation B: Abuse of Authority- Sergeant Ayotunde Adeniyi entered § 87(2)(b) in the Bronx. Allegation C: Abuse of Authority- Sergeant Ayotunde Adeniyi searched 887(2)(b) in the Bronx. § 87(2)(g) stated that she and her husband, §87(2)(b) whom does not live with her, were in her apartment. § 87(2)(b) and \$87(2)(b) engaged in a dispute. \$87(2)(b) initially stated called the police and reported that § 87(2)(b) had stolen money from him; then stated that she called 911 because she told \$87(2)(b) to leave and he refused to do so and was becoming violent; § 87(2)(b) ■ later added that an emergency life alert (from a medical device she wears around her neck) triggered a call to 911. Four uniformed officers allegedly arrived. Two of the officers were identified via the investigation as PO Mirabal and PO opened the door and told the officers to enter the apartment. The officers entered the apartment and followed §87(2)(b) into the living room. §87(2)(b) explained to the officers what had occurred. The life alert operator also explained what she heard. \$87(2)(0) interjected and stated that he lived in the apartment and that §87(2)(b) stole his wallet and had it in the top dresser drawer in her bedroom. § 87(2)(b) told the officers that § 87(2)(6) does not

gave the officers permission to enter the second bedroom. The officers did not respond Page 2

live in the apartment and that the money in the drawer was hers. She also told the officers that she sometimes allows §87(2)(b) to stay in the apartment, but that he sleeps in a second bedroom.





PO Mirabal's Body Worn Camera (in IA #30) shows PO Mirabal speaking to an unidentified Hispanic female in Spanish. PO Mirabal asks the unidentified female, "So this man... she always abuses him?" The Hispanic female responds, "Yes." PO Mirabal asks, "Why do you think she takes him back? Is it for the checks?" The Hispanic female responds, "Of course. Why else?" PO Mirabal responds, "I just have to ask because, you know, I feel bad for the man. Everyone says he's a really good person." The Hispanic female responds, "He's a really good person. Every time that they call the police, they never find anything" (Board Review 15 and Board Review 17).



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PO Mirabal's Body Worn (in IA#32) shows PO Mirabal, PO Tansey, \$87(2)(6) and \$1,7(2)(6) in the lobby of the apartment building. \$87(2)(6) says, "I never touch my wife. She hits me. She throws a stick at me. She hit a stick on the top of my head and broke the broomstick on my head. I sleep in the park all the summer. She kicked me out" (Board Review 15 and Board Review 19).



2018-07-26 16-13-16.mp4

PO Mirabal's Body Worn Camera (in IA #27) shows PO Mirabal, PO Tansey, Sgt. Adeniyi, and standing outside of the apartment. § 87(2)(b) enters the apartment. PO Oseiakoto leans into the apartment and grabs what appears to be a bag and gives it to \$87(2)(6) exits the apartment. Between 00:20 and 00:55, \$87(2)(b) is seen inside the apartment walking towards the entrance. §87(2)(b) is holding what appears to be a cellphone that has a flashlight on. Between 00:30 and 01:15, the angle moves slightly to the right depicting Sgt. Adeniyi outside of the apartment on the left, § 87(2)(b) inside the apartment, and PO Oseiakoto standing inside the apartment, against the front door. § 87(2)(b) states, "What wallet?" Sgt. Adeniyi responds, "He's talking to us." \$87(2)(b) repeats, "What wallet?" PO Oseiakoto states, "Ma'am he's not talking to you." \$ 37(2)(b) says something, but his voice sounds faint and it is unclear what he states, "You better stop lying. You better stop lying. You didn't have no damn money. Youse a liar. Please. Please." Simultaneously, \$87(2)(b) states, "You want me to get my wallet. Let me go and get it." Sgt. Adeniyi asks, "Can you let him get it, miss?" \$87(2)(5) responds, "Sir, he don't have no wallet in here and he's not going in my house." Between 01:05 and 01:30, \$87(2)(b) says, "I can't get my wallet." PO Mirabal responds, "Yeah, come on. Let's go inside. Come on." Simultaneously, an officer states, "I understand that you're recording. We're also recording you." \$87(2)(6) states, "Okay, so you record, I record, that's it." Sgt. Adeniyi enters the apartment. PO Mirabal asks, "Come on. Where's the wallet at?" An officer states, "Where do you have the wallet?" \$87(2)(b) enters the apartment. PO Mirabal then enters the apartment. §87(2)(b) states, "That's it. Ain't nobody got no wallet. Ain't nobody going in

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my drawers and searching through my house. Don't go searching in my stuff. You don't have the right to go searching in my room."

At 01:32, \$37(2)(5) begins walking and states, "Get out of my room. Get out." Sgt. Adeniyi stands in front of \$87(2)(b) and says, "Miss, miss, relax." \$87(2)(b) states, "Sir, no. He's not going through my stuff." Sgt. Adeniyi tells \$87(2)(b) "Have a seat." \$87(2)(b) states, "You don't have the right to touch my stuff." Sgt. Adeniyi responds, "I'm going with him. You have a seat." Sgt. Adeniyi walks away to the left, out of the camera angle. \$87(2)(6) with a cellphone with the flash on. At 02:20, \$87(2)(b) states, "He doesn't even sleep in there. He sleeps in the second room. That's my bedroom. That's what I'm saying to you. He's in my bedroom. He's in my bedroom. Y'all got this man going through my bedroom. Are y'all for real? Let me call my mother." \$87(2)(6) stands up, walks towards the left, and says, "Yo, get that man out of my bedroom, please. Why are ya guys searching my stuff? Y'all are wrong. You don't even have a search warrant. Get out of my room." The camera moves slightly to the left and features PO Oseiakoto and \$87(2)(b) At 02:35, Sgt. Adenyi and \$87(2)(b) exit a room on the left. Sgt. Adeniyi states, "He's your husband. He can go in your stuff." \$87(2)(b) responds, "No he can't go in my stuff." Sgt. Adeniyi responds, "Alright, well he has his wallet. It was in your drawer." The officers and \$37(2)(b) leave the apartment (Board Review 15 and Board Review 18).



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PO Mirabal stated that she and PO Tansey responded to a call of a dispute at the incident location. PO Mirabal did not recall whether any other detail was provided in the call and she did not know who the caller was. They responded and spoke to \$87(2)(b) at her apartment door for approximately ten minutes. No other officer was present. \$87(2)(b) stated that she wante stated that she wanted who was either her partner or husband, out of her apartment. §87(2)(b) was nasty and screaming at the officers, but PO Mirabal did not recall what she said. PO Mirabal believed was downstairs, but she did not recall how they learned this. PO Mirabal and PO Tansey went downstairs to the lobby and spoke to \$87(2)(b) was crying and stated that he lived in the apartment with §87(2)(b) and that he was willing to leave, but he wanted his wallet back and said that the wallet was in the top drawer of a dresser in a room inside the apartment. \$ \$7(2)(b) s identification was obtained, but PO Mirabal did not recall by whom. The identification had an address on it which PO Mirabal believed to be the address of the incident location. There were two security guards who told the officers that \$37(2)(b) had been in the apartment for at least one year and that this issue between § 87(2)(b) and § 87(2)(b) recurring event. PO Mirabal guessed that §87(2)(b) waited to get §87(2)(b) s Social Security check and then kicked him out of the apartment after she got the money. There were a few people in the hallway who approached them, but PO Mirabal did not recall their conversations. One female stated that she felt bad for \$87(2)(b) because \$87(2)(b) always kicks him out. PO Mirabal called for a supervisor and Sgt. Adeniyi and PO Oseiakoto arrived. PO Mirabal spoke to Sgt. Adeniyi in the lobby and relayed the information they obtained from all parties.

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PO Mirabal believed, but did not remember, that it was Sgt. Adeniyi's decision to enter the apartment and retrieve swallet. PO Mirabal did not recall if there was a conversation regarding arresting \$87(2)(b) because of the wallet or obtaining a search warrant to retrieve the wallet. PO Mirabal did not recall if any officer asked \$57(2)(b) for permission to enter the apartment. However, the officers had confirmed that \$87(2)(b) lived in the apartment and had a right to be inside. The officers entered the apartment. \$87(2)(b) and Sgt. Adeniyi entered a room within the apartment. PO Mirabal did not recall where \$87(2)(b) was. Sgt. Adeniyi and \$57(2)(b) were in the room for approximately one minute. PO Mirabal did not know who opened the drawer. PO Mirabal did not open any drawers and she did not think that any officer searched additional drawers. \$87(2)(b) retrieved his wallet. \$87(2)(b) and the officers then left. \$7(2)(b) stated that she did not consent to the search of her bedroom and apartment, that she did not want the officers there, and that \$87(2)(b) did not live in the apartment. PO Mirabal did not recall if \$87(2)(b) told the officers to leave her apartment, but believed that she did. \$7(2)(c) had a cellphone in her hand and stated that she was recording the incident. PO Mirabal
did not and did not hear any officer tell \$87(2)(b) that she could not record the incident or say, "You can't be filming. You're not supposed to be filming officers." The Department of Aging was notified on behalf of \$87(2)(b) regarding elder abuse (Board Review 05).
PO Tansey's statement was consistent with PO Mirabal's with the following exceptions. PO Tansey and PO Mirabal entered the lobby and spoke to \$37(2)(b) first, then to the security guards, and then they went to \$37(2)(b) apartment and spoke with her. PO Tansey and PO Mirabal waited for Sgt. Adeniyi in the lobby. PO Tansey did not recall if officers entered the apartment. PO Tansey did not see an officer open or search a drawer in the apartment. PO Tansey did not see where in the apartment \$37(2)(b) retrieved his paperwork. \$37(2)(b) then left the apartment. PO Tansey did not recall \$37(2)(b) saying that she did not want officers to enter the apartment. PO Tansey did not recall if \$37(2)(b) had a cellphone in her hands or hearing her state that she was recording the incident. PO Tansey did not and did not hear any officer tell \$37(2)(b) that she could not record the incident or say, "You can't be filming. You're not supposed to be filming officers" (Board Review 06).
Sgt. Adeniyi's statement was consistent with PO Mirabal's with the following exceptions. PO Mirabal and PO Tansey requested a supervisor to the incident location in regards to a dispute. Sgt. Adeniyi and PO Tansey arrived and Sgt. Adeniyi spoke to PO Tansey and PO Mirabal in the lobby. Sgt. Adeniyi was the only supervisor present. The officers stated that an elderly couple had a dispute and that they believed \$87(2)(b) was a victim of elder abuse. The officers told Sgt. Adeniyi that \$87(2)(b) allows \$87(2)(b) into the apartment and kicks him out after he obtains his benefits check. Sgt. Adeniyi believed he also spoke to a security guard who also stated that \$87(2)(b) always fight, and that \$87(2)(b) always kicks \$87(2)(b) out. Sgt. Adeniyi then spoke to \$87(2)(b) always fight, and that \$87(2)(b) separately, in the lobby. \$87(2)(b) cried and appeared sad, and stated that \$87(2)(b) wanted to get his wallet from the apartment and leave. Sgt. Adeniyi asked \$87(2)(b) wanted to get his wallet from the apartment and leave. Sgt. Adeniyi asked \$87(2)(b) where his wallet was and \$87(2)(b) stated that it was in a drawer inside the bedroom in the apartment. \$87(2)(b) was upset and agitated, which Sgt. Adeniyi could tell because she yelled "I'm tired of this guy. I want him out of the apartment." Aside from speaking to the officers, \$7(2)(b) \$87(2)(b) and security guards, Sgt. Adeniyi did not take any other step to verify that
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identification. He believed the officers obtained it to prepare a DIR. Sgt. Adeniyi stated that he decided to go upstairs and retrieve \$87(2)(b) swallet because he believed that \$87(2)(b) lived in the apartment, that he was a victim of elderly abuse, and that \$87(2)(b) wanted to get his wallet and leave. The officers escorted \$87(2)(b) and \$87(2)(b) the apartment. Sgt. Adeniyi did not recall whether \$87(2)(b) was informed that the officers were going to enter the apartment. Sgt. Adeniyi did not know who opened the door. They all entered the apartment. [887(2)(b) indicated which room the wallet was in and Sgt. Adeniyi escorted § 87(2)(b) into the bedroom. Sgt. Adeniyi did not recall if any other officer entered the bedroom. § 87(2)(b) was upset and stated that she did not want § 87(2)(b) to go into the bedroom. § 87(2)(b) might have stated that she did not want officers inside her apartment, but Sgt. Adeniyi did not recall. § 87(2)(b) stated that she did not consent to the search of her bedroom. Sgt. Adeniyi responded that he was not searching her bedroom. §87(2)(b) stating something along the lines of, "This is illegal." None of the officers responded. Sgt. Adeniyi added that, if two parties live in a home and one party allows officers to be inside or search the premise, despite a second occupant's objection, officers have the right to enter. searched one drawer from a dresser in the bedroom and obtained his wallet. Sgt. Adeniyi did not and did not see any officer open or search any drawers. Sgt. Adeniyi and \$37(2)(5) in the bedroom for approximately two or three minutes. The officers and §87(2)(b) apartment right after (\$ 97(2)(b) obtained his wallet. Sgt. Adeniyi did not recall (\$ 87(2)(b) stating that she was recording the incident, but she did have a cellphone in her hand. Sgt. Adeniyi did not and did not hear any officer tell § 57(2)(b) that she could not record the incident or say, "You can't be filming. You're not supposed to be filming officers" (Board Review 07). PO Oseiakoto's statement was consistent to PO Mirabal's with the following exceptions. PO Oseiakoto learned the details of the dispute after the incident. He believed Sgt. Adeniyi escorted to the room where he stated his wallet was in. PO Oseiakoto did not and did not see any other officer enter the room. PO Oseiakoto remained in the living room and he could not see and Sgt. Adeniyi did inside the room. PO Oseiakoto did not and did not see any officer open or search any drawers within the apartment. § 87(2)(b) held a cellphone with the flash on and moved it side to side as if she was recording. PO Oseiakoto did not and did not hear any officer tell \$87(2)(b) that she could not record the incident or say, "You're not supposed to be filming officers." §87(2)(b) retrieved his wallet and the officers left (Board Review 08). Event no. § 87(2)(b) documents that on October 23, 2017, at approximately 10:20 p.m., Life Line Operator §87(2)(b) called 911 on behalf of §87(2)(b) and reported that there was a male banging on her door. A description of the male was not provided. No other information was provided. At approximately 10:39 p.m., Life Line Operator \$87(2)(b) reported that a female was having a dispute with a male at the location. It was unknown whether weapons were involved or if anyone was injured. At approximately 10:40 p.m., §87(2)(6) called 911 and stated that there were officers on scene and she requested a sergeant. At approximately 10:43 p.m., § 87(2)(b) called 911 and stated that the police came and wanted her to leave her house and she requested a patrol supervisor in regards. At approximately 11:35 p.m., §87(2)(6) called 911 and reported that a sergeant conducted an illegal search of a bedroom. The event shows that only two units,

lived in the apartment. Sgt. Adeniyi did not recall if he obtained § 87(2)(b)

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The Domestic Incident Report, prepared by PO Mirabal, lists \$87(2)(b) as the victim and § 87(2)(b) as the suspect. It notes that § 87(2)(b) and § 87(2)(b) are married and live together. It notes that § 87(2)(b) was upset and crying. The first words § 87(2)(b) (told the officers) said to the officers upon their arrival was: "She kicked me out." The following narrative was provided regarding the incident: At the time and place of occurrence, \$87(2)(b) refused to let \$87(2)(b) back into the apartment. \$87(2)(b) stated that his wallet was inside \$87(2)(b) bedroom and he wanted it back. \$87(2)(b) was the primary aggressor and did not want to allow \$87(2)(b) and in nor get his wallet. \$87(2)(b) and \$87(2)(b) are legally married. After a supervisor arrived, § 87(2)(b) let § 87(2)(b) back in the apartment, but § 87(2)(b) did not feel safe staying in the apartment. The New York State Adults Protective Services was notified (generating Sebastian Case no. §87(2)(b) The Department of Aging was also to be notified (Board Review 10). One exception for requirement of co-occupant consent is clearly outline in the event of domestic abuse. In such a case, as officers have a good reason to believe that domestic violence has occurred, their entry of that location to collect belongings or speak with a victim, however much a spouse or co-tenant objected, would be valid. Such an entry would fall under exigent circumstances. Georgia v. Randolph, 547 U.S. 103 (Board Review 11). **Civilian and Officer CCRB Histories**

consisting of PO Mirabal and PO Tansey and Sgt. Adeniyi and PO Oseiakoto, responded to the

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has filed two other CCRB complaints (Board Review 12):

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calls (Board Review 09).

○ § 87(2)(b)			
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		vice for 14 years and has been a subject that	
complaints if	ivolving 13 allegations, of	which none have been substantiated.	§ 87(2)(g)
	Mediation (Civil and Criminal Histories	
§ 87(2)(b)	declined to mediate this c		
		y Office of the Comptroller has no re	cord of a Notice
of Claim bein	-	complaint (Board Review 13).	
[3 01 (2)(0)] [33 00(1)(0/0(+/)[3 07(2)(0)]		
Squad No.: 1	0		
r			
Investigator:	Signature	Print Title & Name	Date
	C		
Squad Leader:			
squad Leader	Signature	Print Title & Name	Date
Reviewer:			
<u> </u>	Signature	Print Title & Name	Date

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